

## **Assembly Bill No. 2538**

### **CHAPTER 392**

An act to amend Sections 1755, 1757, 2124, 2626, and 2629 of, and to add Section 1755.1 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 25, 2010. Filed with  
Secretary of State September 27, 2010.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2538, Niello. Unemployment insurance: eligibility for benefits: notification.

Existing law requires the Employment Development Department to implement and administer the unemployment insurance program in this state, and provides for the payment of unemployment compensation benefits to eligible individuals who are unemployed through no fault of their own. Existing law provides for penalties and interest if any person or employing unit is delinquent in the payment of any contributions for unemployment insurance, and authorizes the Director of Employment Development to collect the delinquency or enforce any state tax liens by levy served personally or by certified mail. Existing law requires that, if the levy is made on a deposit or credits or personal property in the possession or under the control of a bank or savings and loan association, the notice of levy shall be delivered or mailed to the branch or office of the bank or savings and loan association at which the deposit is carried or at which credits or personal property is held.

This bill, would authorize the director to serve the levy by first-class mail instead of certified mail. This bill would instead require that, if the levy is made on a deposit or credits or personal property in the possession or under the control of a bank or savings and loan association, the notice of levy shall be delivered or mailed to the centralized processing unit or location designated by that bank or savings and loan association where the credits or other property is held. To implement those provisions, the bill would also authorize the department to serve notice to an address for a bank or savings and loan association by magnetic media, electronic transmission, or other electronic technology.

Existing law requires that the place of trial for specified violations of unemployment insurance laws be in the county of residence or principal place of business of the defendant or defendants, except as provided.

This bill would also specify that the place of trial for those violations may also be in any county where the defendants were transacting the business that resulted in the alleged violations.

Existing law provides for the payment of disability benefits to eligible individuals who are not able to work due to a disability, injury, or illness. Existing law requires that an individual be eligible to receive, for any day, if otherwise eligible, disability benefits reduced by the amount of the maintenance allowance and permanent disability indemnity, if specified conditions are met. Existing law makes an individual ineligible for disability benefits for any day of unemployment and disability for which he or she has received, or is entitled to receive, other benefits, as defined, in the form of cash payments, including a specified maintenance allowance paid for vocational rehabilitation.

This bill would instead require that an individual be entitled to receive, for any day, if otherwise eligible, disability benefits reduced by the amount of the permanent disability indemnity if the permanent disability indemnity is less than the amount an individual would otherwise receive as disability under those provisions. The bill would exclude the maintenance allowance paid for vocational rehabilitation from that definition of “other benefits” for purposes of determining eligibility for disability benefits.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1755 of the Unemployment Insurance Code is amended to read:

1755. If any person or employing unit is delinquent in the payment of any contributions, penalties or interest provided for in this division, the director may, not later than three years after the payment became delinquent or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, collect the delinquency or enforce any liens by levy served either personally or by first-class mail, to all persons having in their possession or under their control any credits or personal property belonging to the delinquent person or employing unit, or owing any debts to the person or employing unit at the time of the receipt of the notice of levy or coming into their possession or under their control for the period of one year from the time of receipt of the notice of levy. Any person upon whom a levy has been served having in his or her possession or under his or her control any credits or personal property belonging to the delinquent person or employing unit or owing any debts to the person or employing unit at the time of the receipt of the levy or coming into his or her possession or under his or her control for the period of one year from the time of receipt of the notice of levy, shall surrender the credits or personal property to the director or pay to the director the amount of any debt owing the delinquent employer within five days of service of the levy, and shall surrender the credits or personal property, or the amount of any debt owing to the delinquent employer coming into his or her possession or under his or her control within one year of receipt of the notice of levy within five days of the date of coming into

possession or control of the credits or personal property, or the amount of any debt owing to the delinquent employer is incurred. Any person in possession of any credits or personal property or owing any debts to the delinquent person or employing unit who surrenders the credits or personal property or pays the debts owing the delinquent person or employing unit shall be discharged from any obligation or liability to the delinquent person or employing unit with respect to the credits or personal property surrendered or debts paid to the director. If the levy is made on a deposit or credits or personal property in the possession or under the control of a bank or savings and loan association, the notice of levy shall be delivered or mailed to the centralized processing unit or location designated by that bank or savings and loan association where the credits or other property are held. If the levy is made on a bank or savings and loan association it will apply to all credits or personal property as provided in this section, except that it will apply to credits and personal property in a deposit account, as defined in paragraph (29) of subdivision (a) of Section 9102 of the Commercial Code, only at the time the notice of levy is received by the bank or savings and loan association.

SEC. 2. Section 1755.1 is added to the Unemployment Insurance Code, to read:

1755.1. (a) In order to implement Section 1755, the department may serve notice to an address for any bank or savings and loan association by means of magnetic media, electronic transmission, or other electronic technology.

(b) For purposes of this section, the term “address” shall mean a telephone or modem number, facsimile machine, or any other reference number designated by the bank or savings and loan association to receive data by electronic means.

SEC. 3. Section 1757 of the Unemployment Insurance Code is amended to read:

1757. Any person notified pursuant to Section 1755 or 1755.1 who fails or refuses to surrender any credits or other personal property, or pay any debts owing to the delinquent employer, up to the amount specified in the levy, shall be liable in his own person and estate to the director in an amount equal to the value of the credits or other personal property in the amount of the debt, but not exceeding the amount specified in the notice of levy, if solely by reason of such failure or refusal, the department is unable to recover the contributions, penalties, or interest owing by the person with respect to which the notice was given.

SEC. 4. Section 2124 of the Unemployment Insurance Code is amended to read:

2124. The place of trial for offenses enumerated in this chapter shall be in the county of residence or principal place of business of the defendant or defendants, or in any county where the defendant or defendants were transacting business that resulted in the alleged offenses, except that if the defendant has no residence or principal place of business in this state, the trial shall be held in the County of Sacramento.

SEC. 5. Section 2626 of the Unemployment Insurance Code is amended to read:

2626. (a) An individual shall be deemed disabled on any day in which, because of his or her physical or mental condition, he or she is unable to perform his or her regular or customary work.

(b) For purposes of this section, “disability” or “disabled” includes:

(1) Illness or injury, whether physical or mental, including any illness or injury resulting from pregnancy, childbirth, or related medical condition.

(2) Inability to work because of a written order from a state or local health officer to an individual infected with, or suspected of being infected with, a communicable disease.

(3) Acute alcoholism being medically treated or, to the extent specified in Section 2626.1, resident status in an alcoholic recovery home.

(4) Acute drug-induced illness being medically treated or, to the extent specified in Section 2626.2, resident status in a drug-free residential facility.

SEC. 6. Section 2629 of the Unemployment Insurance Code is amended to read:

2629. (a) Except as provided in this section, an individual is not eligible for disability benefits under this part for any day of unemployment and disability for which he or she has received, or is entitled to receive, “other benefits” in the form of cash payments.

(b) “Other benefits,” as used in this section and Section 2629.1, means any of the following:

(1) Temporary disability indemnity under a workers’ compensation law of this state or of any other state or of the federal government.

(2) Temporary disability benefits under any employer’s liability law of this state or of any other state or of the federal government.

(3) Permanent disability benefits for the same injury or illness under the workers’ compensation law of this state, any other state, or the federal government.

(c) If these “other benefits” are less than the amount an individual would otherwise receive as disability benefits under this part, he or she shall be entitled to receive, for that day, if otherwise eligible, disability benefits under this part reduced by the amount of these “other benefits.”

(d) An individual shall be entitled to receive, for any day, if otherwise eligible, disability benefits under this part reduced by the amount of the permanent disability indemnity if the permanent disability indemnity is less than the amount an individual would otherwise receive as disability benefits under this part.